

APPEAL NO. 022182
FILED OCTOBER 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 23, 2002. Regarding the disputed issues, the hearing officer determined that the respondent (claimant) “did not sustain a compensable injury on _____”; that because the claimant did not sustain a compensable injury, the claimant did not have disability; and that the appellant (carrier) is relieved of liability because the claimant did not timely report her injury to the employer and did not have good cause for failing to do so.

The carrier appeals, contending that the hearing officer's findings of fact directly conflict with his conclusions of law and requests that we “resolve the conflict.” The file does not contain a response from the claimant.

DECISION

Affirmed.

The carrier has misread the hearing officer's determinations, resulting in this appeal.

The hearing officer found that the claimant sustained an injury as defined in Section 401.011(26) and that the injury was sustained in the course and scope of employment. This finding does not automatically equate to a compensable injury. The hearing officer went on to find that the claimant did not timely report her injury as required by Section 409.001 and thereby the carrier was relieved of liability under Section 409.002 making the injury noncompensable. The hearing officer further found that due to the “claimed injury,” the claimant was unable to obtain and retain employment at the preinjury wage. This does not amount to a finding of disability because by definition in Section 401.011(16), disability requires a compensable injury, not just a “claimed injury.” The hearing officer clearly believed that the claimant sustained an injury as she alleged, but because it was not timely reported it was not compensable, and without a compensable injury, there can be no disability.

The hearing officer's findings of fact and conclusions of law are supported by the evidence and are legally correct and no reformation is required.

Insofar as the carrier's appeal amounts to a dispute on the injury determination, we find that the hearing officer's determination is not against the great weight and preponderance of the evidence. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
ACE USA
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Philip F. O'Neill
Appeals Judge